

§ 28A-8-2. Provisions of bond.

A bond given pursuant to this Article shall be:

- (1) Payable to the State to the use of all persons interested in the estate; and
- (2) Conditioned that the personal representative giving the bond shall faithfully execute the trust reposed in the personal representative and obey all lawful orders of the clerk of superior court or other court touching the administration of the estate committed to the personal representative; and
- (3) In an amount not less than:
 - a. One and one-fourth times the value of all personal property of the decedent when the bond is secured by a suretyship bond executed by a corporate surety company authorized by the Commissioner of Insurance to do business in this State, provided that the clerk of superior court, when the value of the personal property to be administered by the personal representative exceeds one hundred thousand dollars (\$100,000), may accept bond in an amount equal to the value of the personal property plus ten percent (10%) thereof; or
 - b. Double the value of all personal property of the decedent when the bond is secured by one of the methods provided in subdivision (4)b, (4)c or (4)d; such value of said personal property to be ascertained by the clerk of superior court by examination, on oath, of the applicant or of some other person determined by the clerk to be qualified to testify as to its value; and
- (4) Secured by one or more of the following:
 - a. Suretyship bond executed, at the expense of the estate, by a corporate surety company authorized by the Commissioner of Insurance to do business in this State;
 - b. Suretyship bond executed and justified upon oath before the clerk of superior court by two or more sufficient personal sureties each of whom shall reside in and own real estate in North Carolina and shall have assets with an aggregate value above encumbrances of not less than the amount of the penalty of the required bond;
 - c. A first mortgage or first deed of trust in form approved by the administrative officer of the courts on real estate located in North Carolina:
 1. Executed by the owner, and conditioned on the performance of the obligations of the bond, and
 2. Containing a power of sale which, in the case of a mortgage, is exercisable by the clerk of superior court upon a breach of any condition thereof, or, in the case of a deed of trust, is exercisable by the trustee after notice by the clerk of superior court that a breach of condition has occurred.

The clerk of superior court shall not accept such mortgage or deed of trust until it shall have been properly registered in the county or counties in which the real estate is located, and the clerk of superior court is satisfied that the real estate subject to the mortgage or deed of trust is worth the amount to be secured thereby, and that the mortgage or deed of trust is a first charge on said real estate. No such mortgage or deed of trust shall be cancelled or surrendered until the

approval of the final account, unless substitution is permitted as provided in G.S. 28A-8-3(d).

- d. A deposit by the owner with the clerk of superior court of negotiable securities, of a kind permitted by law to be proper investments for fiduciaries exercising due care, having a fair market value determined by the clerk to be equal to the amount of the penalty of the bond. Such securities shall be properly endorsed, delivered to the clerk of superior court, and accompanied by a security agreement containing a power of sale authorizing the clerk of superior court to sell them in the event the person to whom letters are being issued commits a breach of any duty imposed upon that person by law in respect of that person's office. Such securities shall not be surrendered by the clerk of superior court to the owner until the approval of the final account, unless substitution is permitted as provided in G.S. 28A-8-3(d). For the purposes of determining the value of the assets of the personal sureties in subdivision (4)b, or the value of the real estate in subdivision (4)c, or the value of the negotiable securities in subdivision (4)d, the clerk of superior court may require a certificate of the value of such property by one or more persons not interested in the estate determined by the clerk to be qualified to certify such value. (C.C.P., s. 468; 1870-1, c. 93; Code, s. 1388; Rev., s. 319; C.S., s. 33; 1935, c. 386; 1949, c. 971; 1967, c. 41, s. 1; 1973, c. 1329, s. 3; 2011-344, s. 4.)